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 Attorneys for Defendant  
 WM Corporate Services, Inc.

UNITED STATES DISTRICT COURT  
 DISTRICT OF ARIZONA

Russell A. Smith,

Plaintiff,

v.

WM Corporate Services, Inc.,

Defendant.

No. 19-CV-01579-PHX-SPL

**DEFENDANT'S NOTICE OF  
 MOTION AND MOTION FOR  
 SUMMARY JUDGMENT**

**[FED. R. CIV. P. 56]**

(Oral Argument Requested)

Defendant WM Corporate Services, Inc. ("Defendant" or "WM"), by and through counsel undersigned, hereby moves for summary judgment in the above-captioned matter. WM is entitled to judgment as a matter of law because Plaintiff cannot prove actionable claims for disability discrimination, failure to accommodate, or retaliation in violation of the Americans with Disabilities Act ("ADA"), as amended. Nor can Plaintiff prove actionable claims for age discrimination in violation of the Age Discrimination in Employment Act ("ADEA"), as amended. This motion is supported by Defendant's Memorandum of Points and Authorities and separate Statement of Facts filed concurrently herewith, all pleadings and papers on file, and any such matters as may be introduced at the hearing on this matter. Pursuant to the Court's Order at Doc. 25, attached hereto as **Exhibit A** is Defendant's certification of good faith consultation regarding this motion for summary judgment.

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1 DATED this 29th day of March 2021.

2 FISHER & PHILLIPS LLP

3  
4 By: s/ Shayna H. Balch

5 Shayna H. Balch

6 Alanna R. Brook

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9 Attorneys for Defendant

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 29, 2021, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrant(s):

Michael R. Pruitt  
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s/ Michelle C. Colwell

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**EXHIBIT A**  
**ATTORNEY CERTIFICATION PURSUANT TO THE COURT'S SCHEDULING**  
**ORDER AT DOC. 25**

Undersigned counsel for Defendants hereby certifies that prior to filing the instant Motion for Summary Judgment pursuant to Rule 56, counsel notified the opposing party of the issues asserted in this Motion. Specifically, counsel for Defendants notified counsel for Plaintiff of the substance of this Motion via letter on March 22, 2021. In addition, Defense counsel had a telephone conversation with Plaintiff's counsel the same day regarding the issues asserted in this Motion. In addition to the March 22nd communications, Defense counsel has also had several conversations with Plaintiff's counsel regarding the issues asserted in this Motion since the inception of this case. Despite this notification the parties were unable to reach an agreement regarding the substance of Defendant's Motion for Summary Judgment.

DATED this 29th day of March 2021.

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